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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/786,158	02/26/2004	Andrew Jay Bean	3638-116 (AMK)	9151
23117	7590	08/04/2008	EXAMINER	
NIXON & VANDERHYE, PC 901 NORTH GLEBE ROAD, 11TH FLOOR ARLINGTON, VA 22203			CHIN SHUE, ALVIN C	
ART UNIT	PAPER NUMBER			
	3634			
MAIL DATE	DELIVERY MODE			
08/04/2008	PAPER			

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/786,158	<b>Applicant(s)</b> BEAN ET AL.
	<b>Examiner</b> Alvin C. Chin-Shue	<b>Art Unit</b> 3634

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
  - If no period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
  - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED. (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### **Status**

- 1) Responsive to communication(s) filed on 19 May 2008.
- 2a) This action is FINAL.      2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### **Disposition of Claims**

- 4) Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) 13-23 is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-9, 11 and 12 is/are rejected.
- 7) Claim(s) 10 is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### **Application Papers**

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### **Priority under 35 U.S.C. § 119**

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### **Attachment(s)**

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO/06/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) Notice of Informal Patent Application
- 6) Other: \_\_\_\_\_

In view of the Appeal Brief filed on 5/19/08, PROSECUTION IS HEREBY REOPENED. The new grounds of rejection are as set forth below.

To avoid abandonment of the application, appellant must exercise one of the following two options:

(1) file a reply under 37 CFR 1.111 (if this Office action is non-final) or a reply under 37 CFR 1.113 (if this Office action is final); or,

(2) initiate a new appeal by filing a notice of appeal under 37 CFR 41.31 followed by an appeal brief under 37 CFR 41.37. The previously paid notice of appeal fee and appeal brief fee can be applied to the new appeal. If, however, the appeal fees set forth in 37 CFR 41.20 have been increased since they were previously paid, then appellant must pay the difference between the increased fees and the amount previously paid.

A Supervisory Patent Examiner (SPE) has approved of reopening prosecution by signing below:

/KATHERINE W MITCHELL/

Supervisory Patent Examiner, Art Unit 3634.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person

having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-3,5-9 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over JLG Inc. 1350SJP (herein after referred to as JLG) in view of British pat. 941,833 (herein after referred to as Pat. '833). JLG shows the claimed lift with the exception of the sensors with a control system. Pat. '833 shows sensors, including limit switches , mounted on a boom for sending output to a control system to determine and position a platform in position zones. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify JLG to comprise sensors and control for sensing output from the sensors, as taught by Pat. '883, for determine and control position zones of his platform. To configure the control system to prevent lift/lower function and telescope function as at the claimed angle, as set forth in claim 3, and to provide conventional sensors to determine four length regions of the boom, as set forth in claims 6 and 7, and to comprise conventional multi-capacity and transport sensors, as set forth in claim 9, would have been an obvious mechanical expediency.

Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over JGL and Pat. '833, as applied to claim 1 above, and further in view of Bodtke. Bodtke shows a lift having a tower and main boom. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the lift of

JGL to comprise a tower boom, as taught by Bodtke, to enhance the positioning of his platform.

Claims 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over JGL and Pat. '833, as applied to claim 1 above, and further in view of Finley. Finley shows an alarm. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the lift of JGL to comprise an alarm, as taught by Finely, to alert unsafe positioning of his platform.

Claims 3 and 5-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over JGL and Pat. '833, as applied to claim 1 above, and further in view of Paine et al. Paine shows an inclinometer 60 for determining a boom angle relative to gravity. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the lift of JGL to comprise an inclinometer, as taught by Paine, to sense the angle of his boom relative to gravity. To configure the control system to prevent lift/lower function and telescope function as at the claimed angle, as set forth in claim 3, and to provide conventional sensors to determine four length regions of the boom, as set forth in claims 6 and 7, would have been an obvious mechanical expediency.

Claim 10 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alvin C. Chin-Shue whose telephone number is 571-272-6828. The examiner can normally be reached on Monday-Friday, 8:00 a.m. - 4:30 p.m.. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Katherine Mitchell can be reached on 571-272-7069. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to

the automated information system, call 800-786-9199 (IN USA OR CANADA) or  
571-272-1000.

Alvin C. Chin-Shue  
Primary Examiner  
Art Unit 3634

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